REMARKS

Claims 1-30 are pending in the application. Claims 1-28 are rejected, and claims 29-30 are objected to. Claim 29 is amended hereby.

Applicant respectfully traverses the rejection of claims 1-6 and 9-18 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,389,965 (Kuzma) in view of U.S. Patent

5   No. 6,002,720 (Yurt, et al.) and U.S. Patent No. 5,119,375 (Panteh, et al.).

Kuzma discloses a video telephone station 10 (Fig. 1) having an audio codec 185 (Fig. 2) and a video codec 500. Data communication between video telephone stations 10 occurs via bidirectional digital data signals transmitted between modems associated with each video telephone 10. The video telephones 10 use a communications protocol known as X.25, which

10   was originally approved as a protocol standard in 1976 (column 5, line 44 through column 6, line 10). An X.25 data packet comprises either audio, video or supervisory data (column 7, lines 10-15).

Yurt, et al., discloses a system of distributing vide and/or audio information that employs digital signal processing (Abstract). Figs. 8a-8e show the preferred data structures of the system.

15   Fig. 8a shows the block structure of video data where a video frame 812 includes a plurality of video samples 811. Fig. 8b shows the block structure of audio data where an audio data frame 822 includes a plurality of audio samples 821. Similarly, Fig. 8c shows one data frame includes a plurality of data bytes. The combination of the audio frames 812, video frames 822, and data frames 832 comprise the elements of a single item 1-3 (Fig. 8d). The arrangements of items 1-3

20   include video frames 812, audio frames 822, and data frames 832 (column 18, lines 45-60).

Paneth, et al., disclose a subscriber RF telephone system (Fig. 2) and teaches

conventional RF transmission of video data to and from stations (column 1, lines 29-39) and the

synchronization of frames to the data rate of the RF link (column 10, lines 36-41).

In contrast, claim 1 recites in part "a plurality of <u>sequential sets</u> of data bytes, <u>each set</u> of

5   data bytes comprising a sequence of <u>at least one audio byte and a plurality of video bytes, at least</u>

<u>one of said plurality of video bytes between each sequential audio byte</u>". (*Emphasis Added*).

The Examiner asserts that Yurt, et al., discloses a sequence of at least one audio byte and

a plurality of video bytes wherein at least one of the plurality of video bytes is between each

sequential audio byte. Applicant respectfully disagrees. Rather, Yurt, et al., discloses that, as

10   shown in Fig. 8d, items 1-3 consist of an arrangement of video frames 812, data frames 832 and

audio frames 822. The frames are not bytes of data. Rather, each frame contains a plurality of

bytes or samples. More particularly, Figs. 8a-c show that each of frames 812, 822 and 832

consist of a plurality of sequential samples/bytes. For example, each video frame 812 consists of

a plurality of sequential video samples 811 and each data frame 832 consists of a plurality of

15   sequential data bytes 831. Each audio, video and data frame consists of a plurality of sequential

samples or bytes entirely of the <u>same type</u> of data/information. Only the <u>frames</u> are separated by

other <u>frames</u> having a different type of data/information. Within a frame, the bytes/samples of

information are not separated from each other by a sample/byte of a different type of

data/information. There are no video bytes between sequential audio bytes or frames. Thus,

20   Yurt, et al., fails to disclose or suggest a plurality of sequential sets of data bytes, each set of data

bytes comprising a sequence of at least one audio byte and a plurality of video bytes, at least one

of said plurality of video bytes between each sequential audio byte, as recited in part by claim 1.

4

The Examiner refers to Fig. 8d as showing the Applicant's claimed data structure. Fig. 8d shows items 1-3, each of which consists of sequential frames of video 812, audio 822 and data 832. Thus, the frames of Yurt, et al., are analogous to the sets of sequential data bytes of the claimed data structure. Within any frame of Yurt, et al., is a plurality of samples/bytes of one

5   and only one type of information/data. In contrast, within each set of sequential data bytes of the present invention is at least one audio byte with at least one video byte between each sequential audio byte. Yurt, et al., does not separate the audio bytes or samples within sequential frames. Thus, Yurt, et al., fails to disclose or suggest a plurality of sequential sets of data bytes, each set of data bytes comprising a sequence of at least one audio byte and a plurality of video bytes, at

10   least one of said plurality of video bytes between each sequential audio byte, as recited in part by claim 1.

Further responsive to the rejection of claims 1-6 and 9-18 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,389,965 (Kuzma) in view of U.S. Patent No. 6,002,720 (Yurt, et al.) and U.S. Patent No. 5,119,375 (Panteh, et al.), Applicant must again

15   respectfully assert that an improper standard of obviousness has been applied.

In the current Office Action, mailed August 23, 2001 (Paper No. 14), the Examiner disagrees with Applicant's prior assertion that an improper standard of obviousness has been applied, and refers to paragraph 4 of the Office Action. In paragraph 4, the Examiner once again asserts that one skilled in the art having the asserted references in front of him/her "*would have*

20   *had no difficulty in*" arriving at the present invention. This is an improper standard of obviousness.

The possibility that one of ordinary skill in the art may have the capability to arrive at an

invention is <u>not</u> the test for whether one of ordinary skill in the art <u>would have</u> arrived at the

invention based on the teaching of the prior art. "At best, the Examiner's comments regarding

obviousness amount to an assertion that one of ordinary skill in the relevant art *would have had*

no difficulty arriving at [Applicant's] invention. This is an inappropriate standard for

5   obviousness." <u>Ex parte Levengood</u>, *28 USPQ 2d 1300, 1301-02 (Bd. Pat. App. & Inter.*

1993)(emphasis added). Furthermore, "[t]hat which is within the capabilities of one skilled in

the art is not synonymous with obviousness." <u>Id.</u> Moreover, "that one can reconstruct . . . an

invention . . . does not afford the basis for an obviousness conclusion unless . . . [the prior art]

supplies sufficient impetus to have led one of ordinary skill in the art to combine the teachings of

10   the references to make the claimed invention." <u>Id.</u>

Applicant respectfully submits that the cited references, as described above, alone or in

combination do not provide impetus to combine the teachings thereof to arrive at Applicant's

invention. Furthermore, Applicant respectfully points out that the Examiner has not referred,

either in paragraph 4 nor anywhere else in the Office Action, to any such impetus contained

15   within the cited references. Without such impetus being provided by the cited references, a

prima facie case of obviousness has not been established.

For all the foregoing reasons, Applicant respectfully submits that claim 1, and claims 2-

18 depending therefrom, are in condition for allowance and respectfully request same.

Responsive to the rejection of claims 7 and 8 under 35 U.S.C. §103(a) as being

20   unpatentable over U.S. Patent No. 5,389,965 (Kuzma) in view of U.S. Patent No. 6,002,720

(Yurt, et al.) and U.S. Patent No. 5,119,375 (Panteh, et al.), and further in view of U.S. Patent

No. 5,583,912 (Schillaci, et al.), Applicant points out that claims 7 and 8 depend from claim 1,

6

which is in condition for allowance for the reasons given above. Accordingly, Applicant submits that claims 7 and 8 are also in condition for allowance, which is hereby respectfully requested.

Responsive to the rejection of claims 19-20 and 23-28 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,389,965 (Kuzma) in view of U.S. Patent No. 5,119,375

5 (Paneth, et al.), and further in view of U.S. Patent No. 5,577,190 (Peters), Applicant respectfully traverses the rejection on the basis that the same inappropriate standard of obviousness applied to claims 1-6 and 9-18 has been applied to claims 19-20 and 23-28. For the same reasons given above in regard to the standard of obviousness applied to claim 1, Applicant submits that claims 19-20 and 23-28 are also in condition for allowance and respectfully request same.

10 Claims 21 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,389,965 (Kuzma) in view of U.S. Patent No. 5,119,375 (Paneth, et al.) and further in view of Peters as applied to claims 19-20 and 23-28, and further in view of U.S. Patent No. 5,583,912 (Schillaci, et al.). Applicant respectfully point out that claims 21 and 22 each depend from claim 19, which is in condition for allowance for the reasons given above. Accordingly,

15 claims 21 and 22 are also in condition for allowance, which is hereby respectfully requested.

The Examiner indicated that claims 29 and 30 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims, for which courtesy the Examiner is thanked. Applicant has rewritten claim 29 in independent form to include all the limitations of its base claim, i.e., claim 19. Thus, Applicant submits that

20 claim 29, and claim 30 depending therefrom, are in condition for allowance, which is hereby respectfully requested.

For all the foregoing reasons, Applicants submit that the pending claims are in condition

7

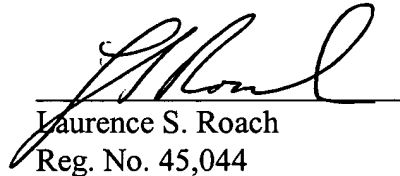for allowance, which is hereby respectfully requested.

In the event Applicant has overlooked the need for an extension of time, an additional extension of time, payment of fee, or additional payment of fee, Applicant hereby conditionally petition therefore and authorize that any changes be made to Deposit Account No. 10-0223,

5   JAECKLE FLEISCHMANN & MUGEL, LLP.

The Examiner is invited to telephone the undersigned in regard to this Amendment and the above identified application.

Respectfully submitted,

/- OCT - O/
_____
Date

_____
Laurence S. Roach
Reg. No. 45,044

JAECKLE FLEISCHMANN & MUGEL, LLP
39 State Street
Rochester, New York 14614-1310
Telephone: (716) 262-3640
Facsimile: (716) 262-4133

8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REPLY UNDER 37 CFR 1.116 - EXPEDITED PROCEDURE - EXAMINING GROUP 3747

Applicant(s)	:	Keith Riffee	)	
			)	
Serial No.	:	08/800,574	)	Examiner:
			)	Lee, R.
Filed	:	February 18, 1997	)	
			)	Art Unit:
Entitled	:	NARROWBAND VIDEO CODEC	)	2613
			)	
			)	

MARKED-UP COPY OF AMENDMENTS TO THE SPECIFICATION AND CLAIMS

Hon. Assistant Commissioner for Patents
Box: AF
Washington, D.C. 20231

Dear Sir:

In compliance with 37 CFR §1.121, Applicant hereby submits the following marked-up

copy of the revisions made to the Claims by the Amendment submitted in response to the Final

Office Action mailed August 23, 2001.

IN THE CLAIMS

Claim 29 was amended as follows:

29. (*Amended*) [The narrowband codec of claim 19 further comprising] A narrowband

video codec for transmitting and receiving compressed video and audio data signals over a rf link

1

comprising:

      a first digital signal processor for converting analog video signals into digital video

5   signals and for compressing the video signals into video bytes;

      a second digital signal processor for decompressing received digital video bytes into

digital video signals and for converting the decompressed digital video signals into analog video

signals;

      a third digital signal processor for converting analog audio signals into digital audio

10   signals, for compressing the audio digital signals into audio bytes, for decompressing received

audio bytes into audio digital signals, and for converting the decompressed digital audio signals

into analog audio signals;

      means for periodically refreshing the transmitted video signals;

      means for running multiple compression and decompression algorithms on all three

15   digital signal processors;

      a solid state memory;

      means for emulating a disk access system of a computer using solid state memory

components to store file sequences with compression/decompression algorithm data; and
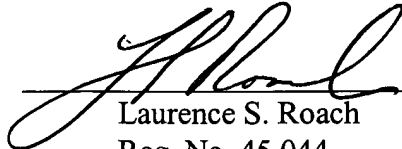
      a memory for storing a program connected to at least the audio digital signal processor,

20   said memory comprising at least two audio conversion programs for converting audio at first and

second respective rates.

2

121600

The Examiner is invited to telephone the undersigned in regard to this Amendment and the above identified application.

Respectfully submitted,

/-OCT-01
Date

Laurence S. Roach
Reg. No. 45,044

JAECKLE FLEISCHMANN & MUGEL, LLP
39 State Street, Suite 200
Rochester, New York 14614-1310
Telephone: (716) 262-3640
Facsimile: (716) 262-4133

3

121600